

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 826
Senate Commerce and Insurance Committee Substitute Adopted 6/12/18
Third Edition Engrossed 6/13/18

Short Title: Clarify System Development Fees.

(Public)

Sponsors:

Referred to:

April 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE SYSTEM DEVELOPMENT FEES.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** G.S. 162A-205(7) reads as rewritten:

5 "(7) Covers a planning horizon of not less than ~~four~~five years nor more than 20
6 years."

7 **SECTION 1.(b)** This section becomes effective October 1, 2018, and applies to
8 system development fees established or updated on or after that date.

9 **SECTION 2.(a)** G.S. 162A-211 reads as rewritten:

10 "**§ 162A-211. Use and administration of revenue.**

11 (a) Revenue from system development fees calculated using the incremental cost method
12 or marginal cost method, exclusively or as part of the combined cost method, shall be expended
13 only to pay:

14 (1) Costs of constructing capital improvements including, and limited to, any of
15 the following:

16 a. Construction contract prices.

17 b. Surveying and engineering fees.

18 c. Land acquisition cost.

19 d. Principal and interest on bonds, notes, or other obligations issued by
20 or on behalf of the local governmental unit to finance any costs for an
21 item listed in sub-subdivisions a. through c. of this subdivision.

22 (2) Professional fees incurred by the local governmental unit for preparation of
23 the system development fee analysis.

24 (3) If no capital improvements are planned for construction within five years or
25 the foregoing costs are otherwise paid or provided for, then principal and
26 interest on bonds, notes, or other obligations issued by or on behalf of a local
27 governmental unit to finance the construction or acquisition of existing capital
28 improvements.

29 (b) Revenue from system development fees calculated using the buy-in method may be
30 expended for previously completed capital improvements for which capacity exists and for
31 capital rehabilitation projects. The basis for the buy-in calculation for previously completed
32 capital improvements shall be determined by using a generally accepted method of valuing the
33 actual or replacement costs of the capital improvement for which the buy-in fee is being collected
34 less depreciation, debt credits, grants, and other generally accepted valuation adjustments.



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1 (c) A local governmental unit may pledge a system development fee as security for the
2 payment of debt service on a bond, note, or other obligation subject to compliance with ~~the~~
3 ~~foregoing limitations.~~ this section.

4 (d) ~~System~~ Except as otherwise provided in subsection (e) of this section, system
5 development fee revenues shall be accounted for by means of a capital reserve fund established
6 pursuant to Part 2 of Article 3 of Chapter 159 of the General Statutes and limited as to expenditure
7 of funds in accordance with this section.

8 (e) If and to the extent that revenues derived from system development fees are pledged
9 to secure revenue bonds or notes issued by a local government unit under the provisions of Article
10 5 of Chapter 159 of the General Statutes, such revenues may be deposited in such funds, accounts
11 or subaccounts, and applied in such manner, as set forth in the bond order, resolution, trust
12 agreement or similar instrument authorizing and securing such bonds or notes until all such
13 revenue bonds or notes are no longer outstanding."

14 **SECTION 2.(b)** This section becomes effective July 1, 2018, and applies to system
15 development fees pledged on or after that date.

16 **SECTION 3.(a)** G.S. 162A-213 reads as rewritten:

17 "**§ 162A-213. Time for collection of system development fees.**

18 (a) Land Subdivision. – For new development involving the subdivision of land, the
19 system development fee shall be collected by a local governmental unit ~~either~~ at the later of either
20 of the following:

21 a. The time of plat ~~re~~ recording or recordation.

22 b. ~~when~~ When water or sewer service for the subdivision or other development
23 is committed by the local governmental unit.

24 (b) Other New Development. – For all other new development, the local governmental
25 unit shall collect the system development fee at the earlier of either of the following:

26 a. The time of application for connection of the individual unit of development
27 to the service or facilities.

28 b. When water or sewer service is committed by the local governmental unit."

29 **SECTION 3.(b)** This section becomes effective July 1, 2018, and applies to system
30 development fees collected on or after that date.

31 **SECTION 4.** The Environmental Management Commission shall update the gallons
32 per day usage under Administrative Rules 15A NCAC 02T .0114 and 15A NCAC 18C .0409 to
33 reflect how new construction uses less water and sewer than under the current rule. The amended
34 rules shall take effect on or before January 1, 2020.

35 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
36 law.